

**JURY TRIAL, RIGHT TO — Both State and defendant have right to jury trial —
Revised 3/2010**

A.R.S. § 22-320 gives the State, not just the defendant, the right to demand a jury trial if timely requested:

A trial by jury shall be had if demanded by either the state or defendant. Unless the demand is made at least five days before commencement of the trial, a trial by jury shall be deemed waived.

This statute is procedural, not substantive, in that it does not in itself grant the right to a jury trial, but specifies the procedure that must be followed in cases in which a jury trial is appropriate. *Goldman v. Kautz*, 111 Ariz. 431, 432, 531 P.2d 1138, 1139 (1975). The defense cannot bar the State from having a jury trial by waiving the defense's right to one. *State v. Poehnelt*, 150 Ariz. 136, 147, 722 P.2d 304, 315 (App. 1985).